

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
Amendment of Section 73.202(b))	MM Docket No. 96-215
Table of Allotments)	RM-8898
FM Broadcast Stations.)	RM-9824
(Anamosa and Asbury, Iowa))	

MEMORANDUM OPINION AND ORDER
(Proceeding Terminated)

Adopted: September 1, 1999

Released: September 17, 1999

By the Chief, Allocations Branch:

1. The Commission has before it a Petition for Reconsideration of the Report and Order¹ in this proceeding filed by Susan I. Coloff ("Coloff"). Sports America Radio Network (SARN) has filed an Opposition to Coloff's Petition for Reconsideration, Coloff has filed a Reply to SARN's Opposition, and SARN has also filed a Statement. For the reasons discussed below, we deny Coloff's Petition for Reconsideration.

2. Background. The Notice of Proposed Rule Making ("Notice")² in this proceeding was issued in response to Coloff's petition to allot Channel 239A to Anamosa, Iowa, as that community's first local FM service. In response to the Notice, SARN filed a counterproposal to allot Channel 238C3 to Asbury, Iowa, as that community's second transmission service. Subsequently, SARN stated that it would be willing to accept Channel 238A at Asbury in lieu of Channel 238C3, asserting that, with site restrictions, Channel 238A could be allotted to Asbury and Channel 239A could be allotted to Anamosa. The Report and Order determined that the public interest would be served by allotting Channel 238A to Asbury as its second local service and Channel 239A to Anamosa as its first local service. In doing so, the Report and Order set forth the reference coordinates for these allotments.³ The Report and Order rejected Coloff's argument that finding a suitable transmitter site within the "tiny area" southwest of Anamosa allowed for the Channel 239A allotment would be "at best, problematic." The Report and Order found that a site for the allotment of Channel 239A does exist and meets all of the Commission's technical requirements.

¹ 12 FCC Rcd 20275 (Allocations Br. 1997).

² 11 FCC Rcd 13881 (Allocations Br. 1996).

³ Specifically, the coordinates for the Asbury allotment to Channel 238A would be as follows: N. Lat. 42-30-18 and W. Long. 90-40-46. This site is only 3.1 kilometers from the center of Asbury. The coordinates for Channel 239A at Anamosa are: N. Lat. 42-05-40 and W. Long. 91-21-18. This site is 6.2 kilometers (3.9 miles) from the center of Anamosa.

3. Petition for Reconsideration. In her Petition for Reconsideration, Coloff argues that the site restriction on the Anamosa allotment would not allow adequate coverage of Jones County, of which Anamosa is the County Seat, even though Jones County allegedly has no other local radio broadcast station. Moreover, Coloff observes that her choice of a site would be severely limited. Coloff argues that the Report and Order's discussion of Coloff's arguments indicates that Coloff asked the Bureau to choose between (a) the allotment of a channel to Anamosa with no site restriction and (b) the allotment of channels to both Anamosa and Asbury, with a site restriction on the Anamosa channel. Coloff states that after rejecting the foregoing alternatives, the Report and Order did not discuss a third option proffered by Coloff, *i.e.*, the allotment of channels to both Anamosa and Asbury, with a site restriction on the Asbury allotment. In this light, Coloff suggests that the site restriction on the Anamosa channel be removed. On the other hand, Coloff contends, a site restriction of approximately 10.7 kilometers on the Asbury channel, would enable a station to serve Asbury and the larger city of Dubuque, Iowa, while leaving a broad area within which a fully-spaced site could be located. In summary, Coloff argues that the restriction on the Anamosa channel should be removed and a restriction of about 10.7 kilometers should be imposed on the Asbury channel, so that applicants for both channels can serve the specified communities of license and the surrounding markets and also have the most flexibility in selecting their sites.

4. In its Reply pleading, Coloff asserts that the Commission will allot a new FM channel to a community only in those instances where a petitioner seeking the allotment both asserts that it intends to apply for the channel in question and maintains such intention throughout the rulemaking process. Coloff argues that SARN plainly has no such intention at present because SARN has failed financially, and is in the process of liquidation. In this light, Coloff contends that the Commission has no reason to allot any channel to Asbury. SARN has filed a Statement in response to the foregoing allegations in which SARN concedes that it is no longer in the sports radio network business, but that it still exists as a corporate entity. Further, SARN states its intention of continuing to "press its claim" for allotting an FM channel to Asbury, Iowa and that if the Commission should determine that such a channel should be allotted, SARN will file an application for the FM allotment in Asbury, Iowa.

5. Discussion. Channels 238A and 239A are the only channels that can be allotted to Anamosa or Asbury. Our engineering staff considered the possibility of removing the site restriction on the Channel 239A allotment at Anamosa and locating the site for Channel 238A at Asbury 9 kilometers (5.6 miles) northeast of Asbury, Iowa, to avoid short-spacing with Channel 239A at its newly proposed location. These site changes are in line with Coloff's suggested changes. The foregoing changes in transmitter sites would result in the Anamosa Channel 239A providing service to 56,066 persons, as opposed to serving 118,842 persons at its current site. This is a substantial reduction in service and would not be in the public interest. The new Asbury site would serve about 13,215 more persons than its current site. Nonetheless, the slight gain in service provided by the Asbury channel would be outweighed by the tremendous loss in service provided by the Anamosa channel. Moreover, the service area resulting from the foregoing site change is already served by five or more radio services, which is considered to be adequate service. Similarly, Jones County, which is the main area that Coloff would like to serve, is also served by five or more radio services. As such, the allotments of Channel 239A to Anamosa and of Channel 238A to Asbury as set forth in the

Report and Order are superior to Coloff's suggested changes and would better serve the public interest. We note that once allotments are made, anybody may apply for them, not just the parties that petitioned for the allotments in the first place. Therefore, we prefer allotments that have reference sites as near to their communities of license as possible and that will allow for the provision of radio service to the most people. In conclusion, since Coloff's proposed changes in site restrictions would result in a substantial reduction in potential service to the public, its Petition for Reconsideration must be denied.

6. Accordingly, IT IS ORDERED That the Petition for Reconsideration filed by Susan I. Coloff IS DENIED.

7. IT IS FURTHER ORDERED That this proceeding IS TERMINATED.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau